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May 19, 2020

Sent Via E-Courts

The Honorable Victor Marrero, U.S.D.J.
Daniel Patrick Moynihan
United States Courthouse
500 Pearl Street
New York, NY 10007-1312

Re: BHYS Sales, Inc. v. P&R Packaging, et als
Civil Action No.: 1:19-cv-11397 (VM)

Dear Judge Marrero:

This firm represents Defendants/Third-Party Plaintiff 123 Deals from A to Z, LLC, and Defendant Raphael Badouch in the above-referenced matter. There is an initial conference before Your Honor, scheduled for this Friday, **May 27, 2020**. This office has attempted to confer with Adam Engel, Esq., counsel to Plaintiffs, without success. Therefore, please accept this correspondence as Defendants/Third-Party Plaintiff's status letter as requested in your notice of initial conference.

a) Brief Description of Case.

Plaintiffs' claims arise from their purchase of Pure Alaskan Supplements from Defendants and resale via Amazon, and their purported subsequent discovery that those supplements are counterfeit. Plaintiffs sue under the Lanham Act and under contract law. In their Complaint, Plaintiffs recognize that Defendants did not purposely misrepresent their products. Defendants 123 Deals from A to Z, LLC, filed an Answer, joining their two suppliers as third-party defendants.

Defendants have two primary defenses: Plaintiffs purchased tens of thousands of supplements from multiple entities at or around the same time period (two entities of which are named as co-defendants). Plaintiffs cannot prove whether the supplements purchased from these Defendants were deficient. Moreover, Defendants do not believe that they sold counterfeit goods altogether, as Defendants thoroughly screen all products that they sell. Defendants are in possession of a sample supplement, from the shipment purchased by Plaintiffs. Defendants look forward to testing same and verifying its legitimacy.

The Honorable Victor Marrero, U.S.D.J.
May 19, 2020
Page 2 of 2

b) Any Contemplated Motions.

In the event that Plaintiffs refuse to withdraw their complaint against these Defendants upon the close of the discovery period, Defendants contemplate filing a motion for summary judgment.

c) Prospect for Settlement.

None at this time.

d) Whether the Parties Consent to Proceed for all Purposes before Magistrate Judge Designed for this Matter.

Defendants/Third-Party Plaintiff consent to proceed before the Magistrate Judge for all purposes.

Thank you for your time and attention to this matter.

Respectfully submitted,

/s/ Samuel Z. Brown
Samuel Z. Brown, Esq.

LL:ljm

cc: Adam E. Engel, Esq. (*via e-courts and email*)